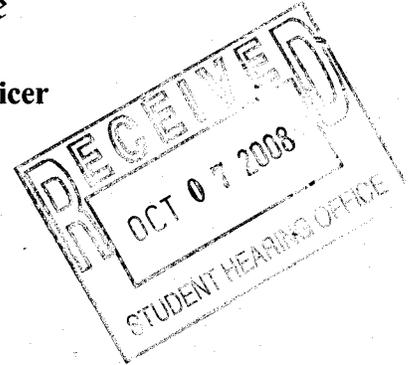


District of Columbia
Office of the State Superintendent of Education
Office of Review and Compliance

Student Hearing Office
Terry Michael Banks, Due Process Hearing Officer
1150 - 5th Street, S.E.; Room 3
Washington, D.C. 20003
(202) 698-3819
Facsimile: (202) 698-3825
Tmbanks1303@earthlink.net



Confidential

STUDENT, through the legal guardian¹)	Complaint Filed: August 26, 2008
)	
Petitioner,)	Prehearing Order: September 22, 2008
)	
v.)	Hearing Date: October 1, 2008
)	
THE DISTRICT OF COLUMBIA)	Docket No. 2008-0194
PUBLIC SCHOOLS)	
)	
Respondent.)	
)	
Student Attending:)	
)	

HEARING OFFICER'S DECISION

Counsel for Petitioner:

Marshall Taylor, Esquire
Antoinette Moore, Esquire
Taylor, Sylla & Agin, LLP
1420 New York Avenue, N.W.
Suite 810
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(202) 783-7830; Fax: (202) 783-7858

Counsel for DCPS:

Daniel Kim, Esquire
Office of the General Counsel, DCPS
825 North Capitol Street, N.E.; 9th Floor
Washington, D.C. 20002

¹ Personal identification information is provided in Attachment A.

Jurisdiction

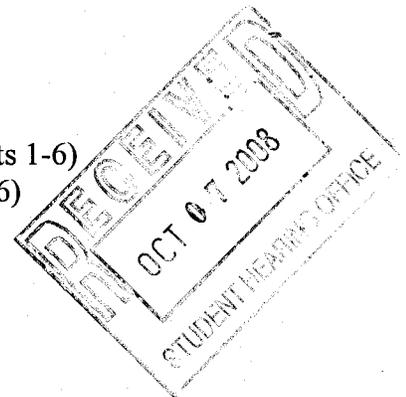
This proceeding was conducted in accordance with the rights established under the Individuals With Disabilities Education Improvement Act of 2004 ("IDEIA"), 20 U.S.C. Sections 1400 et seq., Title 34 of the Code of Federal Regulations, Part 300; Title V of the District of Columbia ("District" or "D.C.") Municipal Regulations ("DCMR"); and Title 38 of the D.C. Code, Subtitle VII, Chapter 25.

Background

Petitioner is a fifteen year-old student attending [REDACTED]. On August 26, 2008, Petitioner filed a Due Process Complaint Notice ("Complaint") alleging that the District of Columbia had failed timely to develop an annual Individualized Education Program ("IEP"). The due process hearing was convened on October 1, 2008. The parties' Five-Day Disclosure Notices were admitted into evidence at the inception of the hearing.

Record

- Due Process Complaint Notice* dated August 26, 2008
- Prehearing Order dated September 22, 2008
- Petitioner's Five-Day Disclosure dated September 24, 2008 (Exhibits 1-6)
- DCPS' Five-Day Disclosure dated September 24, 2008 (Exhibits 1-6)
- Attendance Sheet dated October 1, 2008
- CD-Rom of Hearing conducted on October 1, 2008



Witnesses for Petitioner

None

Witnesses for DCPS

[REDACTED] DCPS Placement Specialist²

² Petitioner's counsel objected to any testimony from DCPS because DCPS failed to file a Response to the Complaint. 20 U.S.C. §1415(c)(2)(B)(i)(I). The Hearing Officer allowed testimony from DCPS only as to the absence of educational harm. *Lesesne v. District of Columbia*, 447 F.3d 828, 834 (D.C. Cir. 2006); *Catalan v. District of Columbia*, 478 F.Supp. 2d 73, 75-6 (D.D.C. 2007). The Hearing Officer advised the parties in the Prehearing Order that educational harm was an issue to be addressed at the hearing.

ORDER

Upon consideration of Petitioner's request for a due process hearing, the parties' Petitioner's Five-Day Disclosure Notices, the testimony presented during the hearing, and the representations of the parties' counsel at the hearing, this 7th day of October 2008, it is hereby

ORDERED, that the Complaint is **DISMISSED WITH PREJUDICE**.

IT IS FURTHER ORDERED, that this Order is effective immediately.

Notice of Right to Appeal Hearing Officer's Decision and Order

This is the final administrative decision in this matter. Any party aggrieved by the findings and/or decision may bring a civil action in any state court of competent jurisdiction or in a district court of the United States without regard to the amount in controversy within ninety (90) days of the entry of the Hearing Officer's Decision, in accordance with 20 U.S.C. Section 1415(i)(2)(B).

/s/
Terry Michael Banks
Hearing Officer

Date: October 7, 2008

APPENDIX A



Student	
Date of Birth	
Student ID No.	
Case No.	
Student's Parent(s) (specific relationship)	
Student's/Parent's Representative	
School System's Representative	
DCPS Placement Specialist	

